

SUPERIOR COURT OF ARIZONA \*\*\* FILED \*\*\*  
MARICOPA COUNTY 08/09/2001  
08/01/2001 CLERK OF THE COURT  
FORM L000  
HONORABLE MICHAEL D. JONES P. M. Espinoza  
Deputy  
LC 2001-000080  
Docket Code 512 Page 1  
FILED: \_\_\_\_\_  
STATE OF ARIZONA NANCY L KHIEL

v.  
AMIR KATCHOEIAN MICHAEL L GERTELL  
GLENDALE CITY COURT  
REMAND DESK CR-CCC  
MINUTE ENTRY  
GLENDALE CITY COURT  
Cit. No. #D212273  
Charge: B. ASSAULT/CAUSING PHYSICAL INJURY  
DOB: 05/24/57  
DOC: 10/29/00

This Court has jurisdiction of this appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A).

This matter has been under advisement and the Court has considered and reviewed the record of the proceedings from the SUPERIOR COURT OF ARIZONA \*\*\* FILED \*\*\*

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trial Court, exhibits made of record and the Memoranda submitted.

Counsel for Appellant has filed a brief pursuant to *Anders v. California* <sup>1</sup> and *State v. Leon* <sup>2</sup>. Counsel has avowed that there are no arguable questions of law and has requested that this Court search the record for fundamental error pursuant to A.R.S. Section 13-4035. This Court had previously granted Appellant the opportunity to file a supplemental brief *pro se*, but none

has been filed.

This Court has considered and reviewed the record of the proceedings from the Glendale City Court, exhibits made of record and the memoranda submitted. The Court has found no errors and has reviewed the record to make an independent determination that sufficient evidence was presented to sustain

the judgment of guilt. When reviewing the sufficiency of the evidence, an appellant court must not re-weigh the evidence to

determine if it would reach the same conclusion as the original

trier of fact.<sup>3</sup> All evidence will be viewed in a light most favorable to sustaining a conviction and all reasonable inferences will be resolved against the Defendant.<sup>4</sup> If conflicts

in evidence exists, the appellant court must resolve such conflicts in favor of sustaining the verdict and against the

Defendant.<sup>5</sup> An appellant court shall afford great weight to the

trial court's assessment of witnesses' credibility and should

not reverse the trial court's weighing of evidence absent clear

error.<sup>6</sup> When the sufficiency of evidence to support a judgment

<sup>1</sup> 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967).

<sup>2</sup> 104 Ariz. 297, 451 P.2d 878 (1969). <sup>3</sup> *State v. Guerra*, 161 Ariz. 289, 778 P.2d 1185 (1989); *State v. Mincey*, 141 Ariz. 425, 687 P.2d 1180, cert.denied,

469 U.S. 1040, 105 S.Ct. 521, 83 L.Ed.2d 409 (1984); *State v. Brown*, 125 Ariz. 160, 608 P.2d 299 (1980); *Hollis v.*

*Industrial Commission*, 94 Ariz. 113, 382 P.2d 226 (1963). <sup>4</sup> *State v. Guerra*, supra; *State v. Tison*, 129 Ariz. 546, 633 P.2d 355 (1981), cert.denied, 459 U.S. 882, 103 S.Ct. 180, 74 L.Ed.2d 147 (1982).

<sup>5</sup> *State v. Guerra*, supra; *State v. Girdler*, 138 Ariz. 482, 675 P.2d 1301 (1983), cert.denied, 467 U.S. 1244, 104 S.Ct.

3519, 82 L.Ed.2d 826 (1984). <sup>6</sup> *In re: Estate of Shumway*, 197 Ariz. 57, 3 P.3d 977, review granted in part, opinion vacated in part 9 P.3d 1062;

*Ryder v. Leach*, 3 Ariz. 129, 77P. 490 (1889)..SUPERIOR COURT OF ARIZONA \*\*\*

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is questioned on appeal, an appellant court will examine the record only to determine whether substantial evidence exists to support the action of the lower court.<sup>7</sup> The Arizona Supreme Court has explained in *State v. Tison* <sup>8</sup> that "substantial evidence" means:

More than a scintilla and is such proof as a reasonable mind would employ to support the conclusion reached. It is of a character which would convince an unprejudiced thinking mind of the truth of the fact to which the evidence is directed. If reasonable men may fairly differ as to whether certain evidence establishes a fact in issue, then such evidence must be considered as substantial.<sup>9</sup>

This Court finds that the trial court's determination was not clearly erroneous and was supported by substantial evidence.

IT IS ORDERED affirming the judgment of guilt and sentence imposed.

IT IS FURTHER ORDERED remanding this matter back to the Glendale City Court for further proceedings.

<sup>7</sup> *Hutcherson v. City of Phoenix*, 192 Ariz. 51, 961 P.2d 449 (1998); *State v. Guerra*, supra; *State ex rel. Herman v.*

*Schaffer*, 110 Ariz. 91, 515 P.2d 593 (1973). <sup>8</sup> SUPRA.

<sup>9</sup> Id. At 553, 633 P.2d at 362.